

FILED*06 AUG 24 15:27USDC-ORP

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

HAROLD D. JOYCE,

Civ. No. 05-1002 HU

Petitioner,

**ORDER DISMISSING HABEAS
CORPUS PETITION**

vs.

**BRIAN BELLEQUE, Superintendent,
Oregon State Penitentiary,**

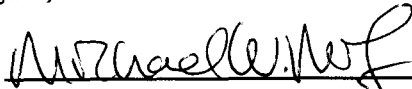
Respondent.

This matter having come before the Court on the motion of the Petitioner to voluntarily dismiss his habeas corpus petition,

IT IS HEREBY ORDERED that the Petition for a Writ of Habeas Corpus is dismissed without prejudice. In the event that the decision in *Blakely v. Washington*, 124 S.Ct. 2531 (2004), is later made retroactive to cases on collateral review, Petitioner has leave to reopen this case only as to the *Blakely* issues, and the limitations period shall be deemed tolled from June 23, 2005, until sixty days after the date of the decision rendering *Blakely* retroactively

applicable. If *Blakely* is made retroactive and the Petitioner moves to reopen this case during the above-referenced 60-day period, Petitioner may also amend the Petition as of right so as to properly plead all *Blakely*-based claims in this Court.

IT IS SO ORDERED this 24 day of August, 2006.


The Honorable ~~Dennis J. Hubel~~ Michael W. Mosman
U.S. District ~~Magistrate~~ Judge

Submitted by:

/s/ Thomas J. Hester
Thomas J. Hester
Attorney for Petitioner

Lynn David Larsen (by consent)
Attorney for Respondent